

## Appendix

### **Case 1 – Television Programme “SINOMAX Special: Healthy Sleeping, Wealthy Life” (SINOMAX特約：健康「家」生活) broadcast on the Jade and HD Jade Channels of Television Broadcasts Limited (“TVB”) on 22 - 26 & 29 - 31 October and 1 – 2 November 2012 at 10:32pm**

A member of the public complained that the first two episodes of the concerned programme series featured pseudo-science of the sponsor’s mattress. The first episode was tantamount to an advertisement for a functional mattress unique to the sponsor and the frequent exposure given to the sponsor’s mattress had gone beyond the editorial need of the programme.

#### **The CA’s Findings**

In line with the established practice, the CA considered the complaint case and the representations of TVB in detail. The CA took into account the relevant aspects of the case, including the following –

##### *Details of the Case*

- (a) the concerned programme was a one-minute programme series comprising ten episodes and sponsored by a spinal-care product brand; and
- (b) the programme adopted the format of a drama revolving around a family in pursuit of healthy lifestyle. In most of the episodes, the family members were either complaining about back or neck pains or having problems with their sitting postures. A son and his girlfriend then suggested some spinal-care products for the family members.

They described the features and/or merits of the products, with accompanying shots of the products and the characters' trying of the products.

***Relevant Provisions in the Generic Code of Practice on Television Programme Standards ("TV Programme Code")***

- (a) Paragraph 1 of Chapter 11 – indirect advertising in programmes is prohibited; and
- (b) Paragraph 3 of Chapter 11 – no undue prominence may be given in any programme to a product, among others, of a commercial nature so that the effect of such reference amounts to advertising.

**The CA's Considerations**

The CA, having regard to the relevant facts of the case, considered that –

- (a) in respect of the allegation that the first two episodes featured pseudo-science of the sponsor's mattress, the CA considered that the relevant remarks of the characters were general in nature and would not be taken as serious science;
- (b) regarding the allegation against indirect advertising for the sponsor, the CA noted that irrespective of the topics being discussed, the characters' dialogues always led to spinal-care products of the sponsor as a cure for pain relief and spinal protection. In Episodes 2, 3, 4, 5, 7, 9 and 10, the characters described the products in detail, including their functions and merits with accompanying shots on the relevant parts of the products, and demonstrated the use of these products. In Episodes 2, 7

and 10, there were remarks suggesting the replacement of a new set of beddings which gave favour to the products being introduced and had the effect of inviting viewers to buy the concerned products. The CA considered such presentations gratuitous, not contextually justified and that undue prominence had been given to the sponsor's products, which amounted to indirect advertising. The concerned episodes were thus in breach of paragraphs 1 and 3 of Chapter 11 of the TV Programme Code; and

- (c) on the other hand, the CA considered that the information presented in Episodes 1, 6 and 8 was general health information and product information of interest to viewers. It was also noted that the relevant product information provided therein was less detailed and the product shots were less prominent. The CA thus considered these episodes marginally acceptable under the existing provisions.

## **Decision**

In view of the above and taking into account the relevant precedents, the CA decided that TVB should be **seriously warned** to observe more closely the relevant provisions in the TV Programme Code.

**Case 2 – Television Programme “To Be Number One” (跛豪) broadcast on the TVB Movies Channel of TVB Pay Vision Limited (presently known as TVB Network Vision Limited) (referred hereafter as “TVBNV”) on 6 May 2012 at 9:00pm – 11:30pm**

A member of the public complained that the programme was full of

despicable and offensive language, contained frequent violent scenes and warranted a classification higher than “PG” (Parental Guidance Recommended).

### **The CA’s Findings**

In line with the established practice, the CA considered the complaint case and the representations of TVBTV in detail. The CA took into account the relevant aspects of the case, including the following –

#### *Details of the Case*

- (a) the film under complaint was broadcast in late evening, viz. 9:00pm - 11:30pm on a movie channel of TVBTV’s domestic pay television programme service (“pay TV service”), which was a general viewing channel not restricted to adults;
- (b) the film was a biopic about the rise of a drug lord of Chiu Chow origin in the 60s and 70s. The programme was labelled as “PG” for adult content, coarse language and violence and such information was provided before the start of the movie;
- (c) throughout the movie, expressions likely to be offensive were found; and
- (d) violent scenes were frequent, and some of them were prolonged and bloody.

#### *Relevant Provisions in the TV Programme Code*

- (a) Paragraph 1 of Chapter 8 – licensees have a clear duty to provide sufficient and reliable information about the nature and content of the programmes to enable viewers to make an informed choice about viewing for themselves and their children; and
- (b) Paragraph 2 of Chapter 8 – clear and unambiguous warnings or labelling should be used where there is a significant risk that viewers may be unprepared for material that may shock or offend them.

### **The CA's Considerations**

The CA, having regard to the relevant facts of the case, considered that –

- (a) regarding the language of the programme, given the theme and background of the story, the use of the crude expressions could be justifiable in context. In a programme of a designated movie channel of a pay TV service with locking function available to parents, which did not target children and with prior warning against coarse language, viewers in general might not find the language in the programme unacceptable;
- (b) regarding the depiction of violence, the concerned violent scenes were either brief and suggestive, or set in dim lighting without gratuitous or gruesome details. The violence depicted in the programme was within bounds of acceptability for a programme broadcast on a channel not targeting children in a pay TV service with prior warning against violence depictions; and
- (c) regarding the provision of programme information for viewers, the CA

noted that TVBTV labelled the movie as “PG”<sup>1</sup> which supposedly implied that it was suitable for children’s viewing under parental guidance, but the programme contained crude language and violence depictions which were not suitable for children’s viewing even with parental guidance and had gone beyond the expectations of viewers generally had of a “PG” programme. Hence, the labelling of the movie in question as “PG”, a programme classification for free TV service which was commonly regarded by viewers to refer to a programme which could still be suitable for children to watch under parental guidance, was misleading and did not provide sufficient and reliable programme information for viewers to make an informed choice of viewing. The programme was thus in breach of paragraphs 1 and 2 of Chapter 8 of the TV Programme Code.

## **Decision**

In view of the above and taking into account the relevant precedents, the CA decided that TVBTV should be **advised** to observe more closely the relevant provisions of the TV Programme Code.

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<sup>1</sup> The TV Programme Code does not mandatorily require a domestic pay TV licensee to label its programmes into “PG” or “M” (for mature audience), the requirement of which is only applicable to domestic free television programme services (“free TV service”). In respect of the standards of such classified programmes provided on the free TV service, it is stipulated that programmes classified “PG” may contain adult themes or concepts but must remain suitable for children to watch under the guidance of parents.